

Consumer HEALTH

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October 21, 1996

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Mr. William Caton, Secretary
Federal Communications Commission
1919 M Street, NW - Room 222
Washington, DC 20554

Federal Communications Commission
Office of Secretary

Dear Mr. Caton:

I have met with your staff members, Erin Duffy and Mary DeLuca, on this date to review our ideas and recommendations concerning the allocation and use of 888 prefix, toll-free telephone numbers (Docket #CC 95155).

Attached are two copies of a summary of our position. This filing is made as required under rules pertaining to ex parte presentations in non-restricted proceedings.

Sincerely,



David S. Shanks
Chief Executive Officer

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Federal Communications Commission
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POSITION PAPER - 888 NUMBERS

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INTRODUCTION

In this proposal, we are recommending the course of action that the FCC must take in order for the distribution of vanity number subscriptions to be handled consistently and fairly by means of first right of refusal.

BACKGROUND OF THE 888 CODE ISSUE:

Due to the diminishing amount of toll-free 800 numbers available for use, the FCC has authorized the use of the 888 code to fulfill new toll-free number requests. 888 numbers were made available for general reservations on February 10, 1996. The 888 code added approximately 7.9 million new toll-free numbers to the millions of toll-free 800 numbers currently in use.

THE FCC'S DEFINITION OF "VANITY NUMBER"

The FCC, in their Notice of Proposed Rulemaking, adopted on October 4, 1995, has defined a vanity number as, "A telephone number which the letters associated with the number's digits on a telephone handset spell a name or word of value to the number holder." The NPRM broadened the definition of vanity numbers for the purpose of the 10/4/95 proceeding to include, "Any numbers in which the holder had a particular interest, be it economic, commercial, or otherwise."

PROPOSED DEFINITION OF "VANITY NUMBER"

Not all toll-free numbers that spell a name or word should necessarily be considered vanity numbers. It is our opinion that the vanity toll-free number requires a more precise definition than the above when the FCC considers allocating vanity 888 numbers:

- ◆ ***Advertising:*** A vanity number is advertised regularly, in print or broadcast media or widely distributed collateral.
- ◆ ***Revenue:*** The vanity number itself is linked directly to the production of a material portion of the subscriber's revenue. This would exclude the residential toll-free number subscriber from obtaining a vanity number under most circumstances.
- ◆ ***Non-Profit:*** The vanity number subscriber can be a non-profit entity who depends on the recognition and retention of a toll-free vanity number for ease of receiving contributions.
- ◆ ***Spells something:*** The vanity number spells out a word, phrase or business subscriber's name, enabling customers/users and potential customers/users to remember the product/association easily. Examples would be 1-800-DOCTORS or 1-800-HOLIDAY (for Holiday Inn), or 1-800-4-HEALTH.
- ◆ ***Widespread use:*** The vanity number is distributed across a wide area, making the toll-free aspect of the number essential, eliminating the need for customers/users to pay long-distance rates to reach the subscriber's business.

- ◆ **Visibility:** The vanity number has a high range of visibility to its customers, whether in promotional literature, internal company literature, or by nationwide advertisement.
- ◆ **Specific application:** The vanity number may reference the nature or a component of the business of its subscriber. In addition, hotline and emergency numbers would fit this category.
- ◆ **Mnemonic:** The vanity number may contain product-specific definition that also aids in the memorization of the number.
- ◆ **Brand copyrighted:** The vanity number may contain a copyrighted word, i.e. Bandaid, Kleenex, Prologue, etc. The subscriber of this type of vanity number has a specific concern with brand reputation.

THE DECISION FACED BY THE FCC

Because 800 numbers and 888 numbers are *not* interchangeable, many corporations currently using vanity 800 numbers have an obvious financial interest in reserving the equivalent vanity number in the 888 code, primarily due to their number(s) having high visibility and consumer recognition. If current vanity 800-number subscribers are not offered the first right of refusal of the 888 equivalent, there is a high possibility of fraud and customer confusion with other entities using that 888-number equivalent.

There is great concern from vanity 800-number subscribers that competitors using the 888 equivalent may benefit from investments they have made in their 800 numbers and would be able to profit from mis-dialed calls intended for the 800-

number subscribers. This confusion could produce thousands of mis-dialed calls each day, causing major phone staffing issues for both the 800- and the 888-equivalent subscribers. The time and manpower that would need to be allocated for handling the 800 and 888 code mis-dialed calls and the resulting appropriate credit for such mis-dialed calls is another potential issue that needs consideration.

WHAT HAS BEEN DONE BY THE FCC ON 888 NUMBER ALLOCATIONS

Many current vanity 800-number subscribers, under the guidance of their Responsible Organizations ("RespOrgs"), have placed the 888-number equivalent on an "unavailable" (or "suppressed") list, being held by Common Carrier Bureau, facilitated by the Database Service Management, Inc. There are currently 380,000 888 numbers on hold from new subscribers or holders of equivalent 800 numbers. The deadline for having an 888 number placed on this list was March 15, 1996. Once a number was placed on this unavailable status list, it cannot be removed until a ruling has been made by the FCC, expected at year's end, 1996.

RECOMMENDATION

In order to coordinate the use of vanity numbers in a fair and organized manner, we recommend that the FCC adopt our clear and viable definition of what a vanity number is.

In addition, the FCC must consider fully their decision on the disbursement of 800/888 equivalents in regard to a fair, equitable, and orderly allocation of these numbers, considering the economic ramifications to current 800 subscribers wishing to replicate their number in the 888 code. The solution to this issue must roll-over to subsequent toll-free code additions, such as the planned 877, 866, etc. additions.

We recommend that the FCC first define a vanity number, then for those who qualify, approve the right of first refusal of current vanity 800 numbers for 888 codes equivalents. Even if the entire list of 380,000 suppressed 888 code vanity numbers were turned over to the current 800 code subscribers of those equivalents, there would still be 7.5 million numbers left for the use of the general business and residential population.

Any other option other than right of first refusal after clear definition of vanity numbers is made will cause confusion to consumers, wasted costs for manpower to correct mis-dialed billing, potential trademark infringement issues, and loss of the value of years of investment made by businesses with the current vanity 800 numbers. Non-profit subscribers could be devastated by any auctioning proposition of their vanity numbers.

We urge the FCC to make a clear definition of these numbers, then grant the right of first refusal as the fair manner to handle vanity number distribution.